



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: May 21, 2001 REPORT NO. 01-103

ATTENTION: Public Services & Neighborhood Safety Committee,
Agenda of May 23, 2001

SUBJECT: Business Improvement District Council Policy

REFERENCE: Council Policy No. 900-07
"Formation of Business Improvement Districts"
Adopted by Resolution R-265208 03/10/1986
Retitled to "Business Improvement Districts" and
Amended by Resolution R-279400 02/10/1992
Amended by Resolution R-290890 10/19/1998

SUMMARY

Issue - Should Council Policy 900-07 (Business Improvement Districts) be amended so that changes to boundaries or assessment levels follow a process similar to the formation process already required under the current policy?

Manager Recommendation - Approve the recommended changes.

Other Recommendation- The Mayor's Small Business Advisory Board recommends adoption of the amended policy.

Fiscal Impact - The district sponsor will cover the cost of petition gathering and the City will cover the cost of the mailed ballot procedure.

BACKGROUND

A Council Policy was enacted to prescribe processes for the establishment, administration and disestablishment of Business Improvement Districts (BIDs) because the City Council recognized the usefulness of BIDs in the revitalization of older commercial neighborhoods. The policy was

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most recently amended in 1998 to incorporate criteria for a mailed ballot procedure for formation of new districts. The criteria was added so that the formation process would follow the spirit of California State Proposition 218, even though business-based assessments are not subject to the requirements of the proposition.

DISCUSSION

Most of the City's BIDs were formed at least 10 years ago with assessment levels that reflected the economic conditions of that time and boundaries that did not necessarily include all of the community businesses. However, the cost of providing programs and services to BID businesses has increased. To improve the economies of scale, increase revenues and provide better services to the business community, a number of the business associations are considering expanding their BID boundaries and/or increasing the level of assessments. However, the existing policy does not provide clear directions on accomplishing this and is not consistent with the formation process.

Therefore, it is proposed that a new section be added to the policy that provides an orderly process for extending boundaries or increasing assessment levels. Similar to the formation process, it would honor the spirit of California State Proposition 218, by determining the level of support in the respective business communities for changes to the applicable BID. This advisory "vote" enables the City Council to consider the level of support from the business community when addressing proposed modifications to existing BIDs.

The revised policy has been developed in conjunction with the Business Improvement District Council (BIDC) and the Mayor's Small Business Advisory Board. Both entities support the proposed amendments to the policy.

ALTERNATIVE

Do not approve the amendments to Council Policy 900-07 (Business Improvement Districts).

Respectfully submitted,

Hank Cunningham
Community & Economic
Development Director

Approved: Bruce Herring
Deputy City Manager

CUNNINGHAM/MDB

Attachment: 1. Council Policy 900-07 (Business Improvement Districts).
SUBJECT: BUSINESS IMPROVEMENT DISTRICTS
POLICY NO.: 900-07

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EFFECTIVE DATE: October 19, 1998

BACKGROUND:

Business Improvement Districts (BID's) are governmentally-designated geographic areas formed to permit businesses to assess themselves to improve business conditions in community commercial areas. They are formed by the City Council under the provisions of State law (The Parking and Business Improvement Act law of 1989-SB 1424). The State legislature found that businesses located and operating within older commercial areas are at a competitive disadvantage with newer development because of inadequate parking, lack of organization and promotional programs. The legislature further found that it is in the public interest to promote the economic revitalization and physical maintenance of those older commercial areas in order to create jobs, attract new businesses and prevent erosion of the districts.

Oftentimes, voluntary merchant's associations serve as the catalyst to form a district. While effective, purely voluntary organizations by themselves benefit all businesses but draw their resources from only a minority. BID's permit the costs of improvements to be spread equitably over all those who benefit.

BID's are not voluntary organizations; they should, however, have the strong support of the underlying membership. They require annual budgets, assessments and hearings and generally have the same formation, administration and dissolution criteria as other governmental assessment entities. The City collects the assessment, contracts with a business association to carry out the improvement program and generally oversees the district operation. In its most successful form, however, the business district and its related association have a great deal of latitude in defining and carrying out their improvement programs with a minimum of bureaucratic intervention and related governmental overhead costs.

The following criteria shall apply to the operation of such BIDs:

Establishment

- Upon presentation of a petition signed by 20% of the eligible businesses within the proposed district, staff shall conduct a mailed ballot procedure of all eligible businesses. The procedure shall be held to determine whether a majority support exists among eligible businesses by assessed value and numerically that respond to the mailing. In the event that an assessed value and numerical majority of those responding support the formation, the City Council may proceed with a public hearing process.
- The district shall include only business tax certificate holders within the bounds established as part of the formation process and (optionally) rental unit business tax certificate holders.
- Businesses with Home Occupancy Permits may be excluded.
- Establishment shall be considered once annually prior to confirming the budget and

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levying the annual assessment for the following fiscal year.

Administration

- The Council, as part of the annual confirmation of the various B.I.D. budgets, shall designate an entity, generally a non-profit business or merchant's association (the association) within each district to advise the Council on the district budget, assessments and activities and to carry out the improvement program.

Selection of the entity shall be based upon its involvement in small business affairs within the district, demonstrated track record and representation of business.

- The association shall be a legally formed California non-profit corporation whose membership shall include all businesses within the district holding current business tax certificates. The association shall elect its board at an annual meeting of the membership called for that purpose and shall take affirmative to assure its board reflects the ethnic and business diversity of the community; notice of the meeting shall be provided to all eligible businesses.
- Policy issues including assessment levels should be resolved through the board election process.
- Proposed reductions in assessment levels and changes to eliminate address ranges from the district boundaries shall be noticed to the BID membership. Any such proposed changes shall be approved by at least two-thirds of the association board of directors prior to City Council consideration as part of the annual confirmation of the various B.I.D. budgets.
- The City Treasurer shall collect the BID fees as part of the business tax certificate process. Fees collected shall be first applied against the BID fees due.

B.I.D. Modifications

1. Proposed increases in assessment levels should be approved by at least two-thirds of the association board of directors. Upon presentation to the City of the association meeting minutes indicating support for the increase, staff shall conduct a mailed ballot procedure of all affected businesses. The procedure shall be held to determine whether majority support of both the number of businesses and the value of the assessments, exists among eligible businesses that respond to the mailing. In the event that an assessed value and numerical majority of those responding support the increase in the levels of assessment, the City Council may proceed with a public hearing process to amend the B.I.D. ordinance. The public hearing process will include a first class mailing to all businesses in the B.I.D. to inform them of the proposed change in the ordinance and the date(s) of the public hearing(s).

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2. Proposed expansions of B.I.D. boundaries should be approved by 20% of eligible businesses which fall within the expansion areas. The petition should clearly indicate the proposed levels of assessment and the modified B.I.D. boundaries. Upon presentation of the petition to the City, staff shall conduct a mailed ballot procedure of all eligible businesses within the expansion areas. The procedure shall be held to determine respond to the mailing. In the event that an assessed value and numerical majority of those responding support the expansion of the B.I.D. boundaries, the City Council may proceed with a public hearing process to amend the B.I.D. ordinance. The public hearing process will include a first class mailing to all businesses in the existing and expansion areas of the B.I.D. to inform them of the proposed change in the ordinance and the date(s) of the public hearing(s).
3. If an expansion of BID boundaries and an increase in assessments for existing business is proposed then both processes 1. and 2. above must occur but the noticing by first class mail to all businesses may be combined.

In the event that the mailed ballot procedure does not indicate sufficient support to move forward with a public hearing process for increasing the levels of assessment and/or expanding the B.I.D. boundaries, then the existing B.I.D. ordinance will remain in effect.

Disestablishment

- Disestablishment for any district shall be considered no more than once annually prior to confirming the budget and levying the annual assessment. The Council will consider disestablishment where strong support for such action is indicated by one or more of the following:
- upon presentation of a petition signed by 20% of the eligible businesses within the district, staff shall conduct a mailed election of all eligible businesses. The election shall be held to determine whether there exists at least 50% of eligible businesses by assessed value that support district disestablishment. In the event that 50% or more of the total number of eligible businesses by assessed value do not vote to support disestablishment, further proceedings shall cease and the district shall not be disestablished. Non-responses to the election shall not be deemed as supporting disestablishment. The Council will consider only one petition process per district for disestablishment in any three-year period.
- a resolution by at least four-fifths of the total number of directors of the association. In this event, the Council may proceed to disestablish the district or take any other appropriate action including district continuance.
- special circumstances as determined by the Council.
- In the event of disestablishment, the Council shall allow for an appropriate period to permit for a reasonable wind down of operations and to assure that existing contracts are

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not impaired. Any remaining assets shall be returned to those businesses of record who were current in their BID assessments at the effective date of the disestablishment ordinance. If the costs to return the remaining assets is greater than the amount of the assets, then the assets shall be spent on an eligible BID activity as determined by the City Manager.

Implementation

- The City Manager shall establish the necessary administrative procedures to implement this policy.

HISTORY:

"Formation of Business Improvement Districts"
Adopted by Resolution R-265208 03/10/1986
Retitled to "Business Improvement Districts" and
Amended by Resolution R-279400 02/10/1992
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**STRIKEOUT VERSION OF
CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY**

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EFFECTIVE DATE: October 19, 1998

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- Businesses with Home Occupancy Permits may be excluded.
- Establishment shall be considered once annually prior to confirming the budget and levying the annual assessment for the following fiscal year.

Administration

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- Policy issues including assessment levels should be resolved through the board election process.
- Proposed changes **reductions** in assessment levels and changes to **eliminate address ranges from the** district boundaries shall be noticed to the BID membership. Any such proposed changes shall be approved by at least two-thirds of the association board of directors prior to City Council consideration **as part of the annual confirmation of the various B.I.D. budgets.**
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